IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2746 of 2006
Date of decision: November 03, 2006.

Ravinder Singh

...**Petitioner(s)**

v.

Jainendra Gurukul

...**Respondent(s)**

Present: Pt. Hari Om Sharma, Advocate for the appellant.

Surya Kant, J. (Oral)

This regular second appeal is preferred by the plaintiff whose suit for permanent injunction has been partly decreed by the courts below to the extent that the respondent-defendant has been restrained from evicting the appellant from one room premises illegally occupied by him, except in due course of law.

The aforesaid suit was filed by the appellant alleging, *inter-alia,* that he is in possession of the property known as Mahila Kalyan Kendra situated in Gurukul Colony, Old Panchkula, Tehsil and District Panchkula. It is averred that the appellant is in possession from last 20-22 years and after developing the land, he raised four rooms and two hall rooms thereupon and also got planted trees over the same. According to the appellant, he has been continuing in peaceful use and occupation of the subject property without any interruption or interference, however, the respondent-defendant who has no right, title or interest in the disputed

property, has been threatening to dispossess him illegally and forcibly.

The defendant-respondent contested the suit, *inter-alia*, taking a preliminary objection that no injunction can be sought against the true owner. It was denied that the appellant is in occupation of the entire property consisting of four rooms and two hall rooms, rather, he was stated to be a trespasser over one room. The remaining three rooms were stated to be lying vacant and were locked by the defendant-respondent. Relying upon the revenue record, it was averred that the respondent is the owner of the subject property and the appellant has no right, whatsoever, to remain in possession of the one room forcefully occupied by him.

Both the courts, relying upon the documentary as well as oral evidence, have concurrently held that the respondent-defendant is owner of the subject property. It has been found, as a matter of fact, that vide resolution No.560 dated 16.9
.1973 (ex.D5) the managing committee of the Jainendra Gurukul had resolved to start Mahila Ashram and in pursuant thereto the rooms were constructed. The courts below have further found that as per the defendant-respondent's own admission, the appellant was in possession of one room. It has also been held that the appellant's possession is not protected with any legal entity and he is a trespasser. Both the courts, however, have held that he would not be evicted from the room occupied by him except in due course of law.

I have heard Learned Counsel for the appellant and perused the impugned judgments.

As the above noted facts speak for themselves, there is a pure and simple concurrent finding of fact returned by the courts below that the

appellant is a trespasser in one of the rooms of the Ashram and has no legal right to retain possession thereof. In my view, there is no universal principle that a trespasser must not be thrown out except in due course of law. It always depends on facts and circumstances of the each case. The courts have yet granted some relief to the appellant. As the questions sought to be raised in this appeal are reiteration of the questions of fact adjudicated upon by the courts below, the same do not give rise to any substantial question of law, requiring consideration by this court.

Consequently, I do not find any merit in this appeal, which is, accordingly, dismissed.

November 03, 2006. [**Surya Kant**]
kadyan **Judge**